

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,)	CR. 12-50107 –JLV
)	
Plaintiff,)	DEFENDANT DIANA BALD EAGLE'S
)	MEMORANDUM IN OPPOSITION TO
vs.)	MOTION FOR CONTINUANCE OF
)	TRIAL AND MOTION TO SEVER
DIANA BALD EAGLE,)	
)	
Defendant.)	

Defendant Diana Bald Eagle, through her attorney, Lorie D. Melone, opposes the Motion for Continuance of Trial (Doc. 105) filed by Shawna Provincial through her attorney Heather Knox. Ms. Bald Eagle objects on the grounds of the Speedy Trial Act, 18 U.S.C. 3161 et seq., and the Sixth Amendment to the United States Constitution that guarantees a right to a speedy trial. Diana Bald Eagle does not consent to waive her rights under the Speedy Trial Act or her Sixth Amendment right to a speedy trial.

Diana Bald Eagle was arrested on March 29, 2013, and made her Initial Appearance on May 8, 2013, before Judge Veronica L. Duffy. Diana Bald Eagle has been incarcerated since her arrest – a total of seventy – four (74) days as of the date of this filing.

Diana Bald Eagle does not dispute the facts contained in Defendant Shawna Provincial's motion, nor does she contend that her motion is without merit. Instead, she contends that an additional continuance would prejudice her and her rights under the Speedy Trial Act and the Sixth Amendment right to a speedy trial. If the Court grants the Motion for Continuance of Trial, Diana Bald Eagle requests that her case be severed from her co-defendants and that her trial proceeds as scheduled.

Pursuant to Rule 14 of the Federal Rules of Criminal Procedure, a court may grant relief from prejudicial joinder of offenses or defendants and may “grant a severance of defendants or provide whatever other relief justice requires.” Severance for prejudicial joinder under Rule 14 is discretionary. *See e.g., United States v. Lutz*, 621 F.2d 940 (9th Cir. 1980).

Diana Bald Eagle wants her day in court in accordance with this Court’s scheduling Order (Doc. 101) and requests the Court deny the Motion for Continuance of Trial or sever Defendant Diana Bald Eagle so that she may have a trial on its merits.

Dated this 11th day of June, 2013.

//s// Lorie D. Melone //s//
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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of June, 2013, via electronic filing with the Court, a true and correct copy of **Defendant Diana Bald Eagle’s Objection to Motion for Continuance of Trial and Motion to Sever** relative to the above-entitled action was sent to:

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//s// Lorie D. Melone _____ //s//
Lorie D. Melone